

— AA 504-00 Hills, John —  
VAR 0357

MSA-S-1829-830

LC letter  
9/28/00

504-00

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0357-V

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IN RE: JOHN HILLS

SECOND ASSESSMENT DISTRICT

DATE HEARD: NOVEMBER 2, 2000

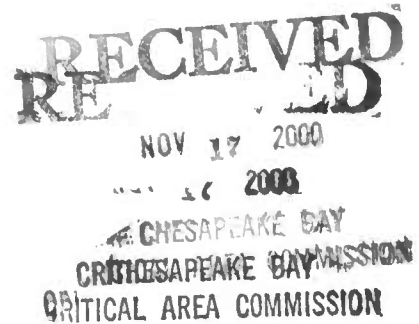
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ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: PATRICIA A. MILEY

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DATE FILED: NOVEMBER 6, 2000



## **PLEADINGS**

John L. Hills, the applicant, seeks a variance (2000-0357-V) to permit a deck addition with less setbacks than required on property located along the east side of Saratoga Avenue, south of Cedar Avenue, Annapolis.

## **PUBLIC NOTIFICATION**

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Mr. Hills testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

## **FINDINGS AND CONCLUSIONS**

The applicant owns a single-family residence located at 3405 Saratoga Avenue, in the subdivision of Arundel on the Bay, Annapolis. The property comprises 7,813 square feet and is zoned R-2 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The applicant seeks to replace an existing front porch with a 12' X 16' deck which will maintain 27 feet from the front lot line.

The Anne Arundel County Code, Article 28, Section 2-405(a) requires a

front yard that is at least 30 feet deep in the R-2 district. Accordingly, the proposal necessitates a variance of three feet.

Patricia A. Miley, a zoning analyst with the Office of Planning and Zoning, testified that the property exceeds the minimum area and width for the R-5 district. The purpose of the project is to eliminate a 3-inch drop from the driveway to the walkway leading to the front porch. The proposed deck would also provide a water view to Fishing Creek. Ms. Miley disputed the hardship and opposed the application.

Mr. Hills testified that the project meets the dual objectives of correcting a dangerous condition while providing a modest dwelling extension similar to decks enjoyed by his neighbors to both sides. He stated that the neighbors do not object to the request, which will have no impact on their views to the water. There was no public opposition at the hearing.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief from the code. This case minimally satisfies the test of exceptional circumstances such that the grant of the variance is necessary to avoid an unnecessary hardship, and to enable the applicant to develop the lot. As noted, the dwelling was constructed with a questionable design which produces trips and falls to its occupants and their visitors. The proffered design eliminates the condition with a very modest expansion into the front yard. Based on Mr. Hills' testimony and the photographs, I am confident that the grant of the variance will not alter the essential character of the neighborhood, substantially impair the

appropriately use or development of adjacent property, or be detrimental to the public welfare. The dwellings to both sides enjoy similar decks, albeit with slightly greater setbacks.<sup>1</sup>

### **ORDER**

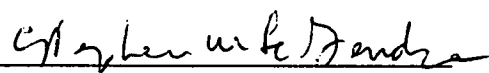
PURSUANT to the application of John Hills, petitioning for a variance to permit a deck addition with less setbacks than required; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 6<sup>th</sup> day of November, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variance of three feet to the required 30-foot front setback to permit a 12' X 16' deck addition in accordance with the site plan.

*The foregoing variance is subject to the following conditions:*

1. *The deck shall remain open-sided.*
2. *There shall be no further improvements into the front yard.*

  
Stephen M. LeGendre  
Administrative Hearing Officer

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<sup>1</sup>I have conditioned the approval on the deck remaining open-sided and no further improvements into the front yard.

### **NOTICE TO APPLICANT**

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

Judge John C. North, II  
Chairman



Ren Serey  
Executive Director

**STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338

September 28, 2000

Mr. Kevin Dooley  
Anne Arundel County Department of Planning and Code Enforcement  
2664 Riva Road, MS 6301  
Annapolis, MD 21401

RE: Variance 2000-0357-V, John Hills

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a deck addition with less setbacks than required. The property is designated LDA and is currently developed with a house and driveway.

Since impervious surfaces are not an issue and because no habitat protection areas will be impacted, this office has no comment on the setback variance. Vegetation removed should be replaced in kind.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler  
Natural Resources Planner

cc: AA504-00

# LANDTECH ASSOCIATES, INC.

1410 CRAIN HIGHWAY, N.W. SUITE 718 GLEN BURNIE, MD 21061  
 (410) 768-2121 FAX (410) 553-9081

NOTE: NOT TO BE USED FOR THE ISSUANCE OF PERMITS.

PROPERTY LINE SURVEY RECOMMENDED TO  
 DETERMINE THE EXACT LOCATION OF  
 IMPROVEMENTS AND/OR ENCROACHMENTS,  
 IF ANY.

